IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.1174 of 2006

DATE OF DECISION: December 1, 2006

Managing Committee of DAV Girls Sr.Secondary School and another

….Petitioners

VERSUS

The State of Punjab and others

….

Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri B.M.Singh, Advocate for the petitioners.
Shri Sukhdip Singh Brar, Additional Advocate General, Punjab for respondents No.1 and 2.
Shri T.S.Dhindsa, Advocate for respondents No.3 to 15.

Viney Mittal,J.

The present petition has been filed under Article 226/227 of the Constitution of India by the petitioners for the issuance of a writ of Mandamus for directing respondent No.1 State of Punjab and respondent No.2, the Director Education Department (Secondary Education)/DPI (Schools), Punjab not to release grant-in-aid to respondents No.3 to 14, which according to the petitioners is not Managing Committee of the school. In the alternative, a prayer has been made to issue directions to the aforesaid respondents No.1 and 2 to release the grant-in-aid to the petitioner Managing Committee and further direct respondents No.1 and 2 not to recognise respondents No.3 to 14 or any other person in their place as the Managing Committee of the school.

Petitioner No.1 claims to be a Managing Committee of DAV Girls Senior Secondary School. It has approached this Court through Shri M.R. Juneja, who claims himself to be a Chairman of the aforesaid Managing Committee. Petitioner No.2 is Dr.Virender Kumar Sharma, who claims himself to be a Manager of DAV Girls Senior Secondary School, Ferozepur Cantt.

Both the petitioners claim that petitioner No.1 Managing Committee and petitioner No.2 Manager are the persons who are authorised to manage the affairs of DAV Girls Senior Secondary School, Ferozepur Cantt. According to the petitioners, respondents No.3 to 14 have no concern with the affairs, management and control of the said school but claim themselves to be the Managing Committee of the said school. Respondent No.9 Smt.Satnam Kaur has been appointed as a correspondent of the said school by the authorities. It is in these circumstances that the petitioners have

approached this Court claiming the reliefs, as noticed above. It has been claimed by the petitioners that without resolving of the said dispute between the petitioners and respondents No.3 to 14, the said private respondents could not have been considered as the Managing Committee of the School, nor respondent No.9 could not have been appointed as Correspondent.

The claim of the petitioners has been contested by the respondents. A written statement has been filed on behalf of respondents No.1 and 2. A preliminary objection has been raised on behalf of the said respondents as follows:

> "That as per transfer deed (Annexure R.1) made on 1.12.1958 between Arya Samaj College Section Ferozepur Cantt and DAV College Trust and Management Society, New Delhi i.e. 2nd party hereinafter referred to as the DAV College Managing Committee, New Delhi, the 2nd party will now run and manage the school either directly or with the help of the Advisory Committee to be constituted and appointed by its according to the rules/resolutions and bye-laws to be framed by it and thereafter the 2nd party will have the right to amend and modified the proposed rules and resolution and bye-laws regarding the constitution of the local managing committee from time to time and its absolute discretion. But in this case the petitioner No.1 i.e. so called Managing Committee of DAV Sr. Secondary School is not approved or constituted by the DAV College Managing Committee, New Delhi. Hence,

this writ petition deserves to be dismissed on this score alone."

We have heard the learned counsel for the parties and have also gone through the record of the case.

In our considered opinion, the dispute raised by the petitioners in the present petition is essentially a dispute qua the management and control of the school by the two rival committees and as such the said dispute cannot be resolved by this Court. In these proceedings, under Article 226/227 of the Constitution of India, for want of evidence. The aforesaid dispute essentially can only be resolved by a Civil Court on production of evidence by the rival claimants.

Consequently, we dispose of the present petition with a liberty to the petitioners to take up their appropriate remedy before the Civil Court, if so desired.

Disposed of with the aforesaid liberty.

(Viney Mittal)
Judge

December 1, 2006
KD

(H.S. Bhalla)
Judge